

U.S. Department of Energy
Washington, D.C.

PAGE CHANGE

DOE 3771.1 Chg 3

8-21-92

SUBJECT: GRIEVANCE POLICY AND PROCEDURES

1. PURPOSE. To transmit revised pages to DOE 3771.1, GRIEVANCE POLICY AND PROCEDURES, of 7-2-81.
2. EXPLANATION OF CHANGE. To make editorial revisions to reflect only organizational title and routing symbol changes required by Notices in the SEN-6 series. No substantive changes have been made at this time. However, this Order will undergo substantive changes in the near future. If you have any questions about specific provisions of the Order, please consult appropriate staff members in the Office of Personnel.
3. FILING INSTRUCTIONS.

a.	<u>Remove Page</u>	<u>Dated</u>	<u>Insert Page</u>	<u>Dated</u>
	3	7-2-81	3	8-21-92
	4	7-2-81	4	7-2-81
	II-7 (and II-8)	11-29-83	II-7 (and II-8)	8-21-92
	IV-1	7-2-81	IV-1	7-2-81
	IV-2	7-2-81	IV-2	8-21-92

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- b. After filing the attached pages, this transmittal may be discarded.

BY ORDER OF THE SECRETARY OF ENERGY:



DOLORES L. ROZZI
Director of Administration
and Human Resource Management

DISTRIBUTION:
All Departmental Elements

INITIATED BY:
Office of Personnel

- f. Grievance File. A separate file which contains all documents related to the grievance (see Chapter I, paragraph 8).
- g. Merit Pay Coverage-Determination Grievance. A written request by an employee that specifically disputes the merit pay coverage determination of the position occupied by the employee at the time the determination was originally made and that requests personal relief.
- h. Personal Relief. A specific remedy within the control of management directly benefiting the grievant. Limited under Chapter III to a specific request for inclusion or exclusion of the position occupied by the grievant under the merit pay system. Personal relief may not include a request for disciplinary or other action affecting another employee.

5. POLICY.

- a. The procedures set forth in this Order shall be administered in a manner which will ensure the orderly, expeditious, and equitable handling of grievances.
- a. Employees using these procedures or acting as representatives under these procedures shall not be subject to restraint, interference, coercion, discrimination, or reprisal by any supervisor or management official.

6. RESPONSIBILITIES AND AUTHORITIES.

- a. Heads of Headquarters Elements and Heads of Field Elements with Personnel Authority.
 - (1) Assure that employees under their jurisdiction are informed of the provisions of this Order.
 - (2) Develop necessary procedures for carrying out the policies contained in this Order.
 - (3) Designate deciding officials to receive and attempt to adjust formal grievances, and supervisory officials to render final decisions on formal grievances referred by the Director of Personnel.
- | b. Director of Administration and Human Resource Management. Assures that the overall grievance system of the DOE is administered in accordance with the regulations and guidelines of the Office of Personnel Management.
- c. Director of Personnel.
 - (1) Makes recommendations, comments and suggestions to the appropriate supervisory official when the deciding official does not accept the recommendations contained in the report of factfinding.
 - (2) Makes the final decision on grievances concerning merit pay coverage determinations when the grievant is not satisfied with the initial decision of the servicing personnel officer.

Vertical line denotes change.

- (3) Renders a final decision on the appropriateness of a rejection or cancellation of a grievance by the deciding official and may direct that a decision be rendered on the merits of the grievance.

d. Deciding Officials.

- (1) Receive and attempt to adjust formal grievances.
- (2) If the formal grievance is not adjusted to the employee's satisfaction, request the servicing personnel office to obtain a person(s) to carry out factfinding.
- (3) Make decisions regarding the disallowance of a representative under Chapter II, "Administrative Grievance Procedure."
- (4) Issue final decisions on formal grievances when all the recommendations contained in the report of factfinding are accepted.

e. Supervisors.

- (1) Promptly discuss matters of concern with employees under their immediate supervision when a grievance is presented informally, and try to clarify misunderstandings and make reasonable adjustments to resolve the matter.
- (2) Promptly obtain answers from an appropriate source when an employee under their supervision presents an informal grievance that is not within the supervisor's authority to resolve.
- (3) Review and comment on grievances concerning merit pay coverage determinations.
- (4) Make decisions regarding the disallowance of a representative under Chapter III, "Grievance Procedure for Resolving Merit Pay Coverage Disputes."

f. Personnel Officers.

- (2) Provide advice to management, individual employees, employee representatives, and other interested parties as to the application and details of the grievance procedures.
- (2) Provides technical advice on the processing of all formal grievances and grievances concerning merit pay coverage determination.
- (3) Issue initial decisions on grievances concerning merit pay coverage determinations.

Employee-Labor Relations & Program Evaluation Division (AD-54), to the Director of Personnel (AD-50) with a specific statement of the basis for finding all or some of the recommendations unacceptable. A copy of the statement will, at the time of transmittal to the Director of Personnel, be furnished to the employee and the employee's representative, if any.

- (3) Within 7 days of receipt, the Director of Personnel will review the grievance file and the deciding official's determination of unacceptability and will forward the complete file together with appropriate comments, suggestions, and recommendations concerning the reasons certain recommendations were determined unacceptable, to the next higher level supervisor in the management chain who has not been involved in the grievance.
- (4) The final decision of the next higher level supervisor in the management chain, as referenced in paragraph 4d(3), shall be rendered to the employee within 15 days after the receipt of the grievance file and a copy furnished concurrently to the servicing personnel office. This final decision will be in writing, contain findings on all issues covered by the factfinding procedures, and direct what relief, if any, is to be provided. The employee may not obtain a further review of the same grievance within the DOE.

5. REVIEW OF GRIEVANCE DECISIONS THAT REJECT OR TERMINATE THE GRIEVANCE SHORT OF A FINAL DECISION ON ITS MERITS.

- a. An employee may request review of any decision on a formal grievance when the decision rejects, cancels for failure to prosecute, or otherwise terminates the grievance without a final decision on its merits.
- b. The request for review shall be in writing explaining fully and clearly the basis for disagreeing with the contested decision, and shall be submitted to the servicing personnel office within 15 days after the date of receipt of the decision. The servicing personnel office will transmit the request for review, a copy of the decision that rejected, canceled, or terminated the grievance, and the complete grievance file, through the Director of Employee-Labor Relations and Program Evaluation Division, to the Director of Personnel. The grievance file should be established in accordance with Chapter I, paragraph 8, of this Order.
- c. The Director of Personnel will render a decision on the appropriateness of the decision to reject, cancel for failure to prosecute, or otherwise terminate a grievance without a final decision and may direct that a decision be rendered on the merits of the grievance.
- d. Should the Director of Personnel sustain the decision to reject or terminate the grievance, the employee may not obtain a further review of the same matter within the DOE.

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CHAPTER IV

SPECIAL PROVISIONS

1. PROCEDURES FOR RESOLVING GRIEVANCES CONCERNING THE INTERPRETATION OF REGULATIONS. In order to assist in the early resolution of grievances where the sole issue or one of the issues is the interpretation of regulations or policies, the following procedure will be used for seeking an official interpretation.
 - a. The supervisor, upon receipt of a grievance and upon reaching an agreement with the grievant that the sole issue, or one of the issues, is the interpretation of a regulation or policy and that some form of personal relief is involved, will refer the grievance to the servicing personnel office which will request an official interpretation from the office of primary interest. The request will be made in writing and include a record of facts bearing on the case, including citation of the regulation(s) or policy(ies) involved, a copy of the employee's grievance, and any other supporting material that constitutes the grievance file at that time.
 - b. The employee and the employee's representative, if any, will be given the opportunity to review this material and to submit written comments as part of the record.
 - c. Upon receipt of the official interpretation, the servicing personnel office will notify the employee and the supervisor in writing of such final interpretation.
2. ALLEGATIONS OF UNFAIR LABOR PRACTICE. An allegation of an unfair labor practice made in connection with, and directly related to, a grievance covered by this Order must be incorporated into the grievance and processed in accordance with this Order. The decision on the grievance may not be construed as an unfair labor practice decision under section 7116 of title 5, United States Code. If an allegation of an unfair labor practice made in connection with, and directly related to, a grievance under this Order has already been filed with the Federal Labor Relations Authority, the portion of the grievance related to the unfair labor practice may not be processed under these procedures.
3. ALLEGATIONS OF DISCRIMINATION IN CONNECTION WITH A GRIEVANCE. The servicing personnel officer shall assure that the same issue is not processed under both the DOE equal employment opportunity complaint system and the grievance procedures. If an allegation of discrimination related to the grievance is raised at any stage in the grievance procedure, processing of the grievance under this Order shall be discontinued and the employee will be referred to the equal employment opportunity counselor for advice on processing the complaint under the DOE equal employment opportunity complaint system.

4. COMBINING FORMAL GRIEVANCES. When several employees within the same office have identical grievances (the dissatisfaction expressed and relief requested are the same), the grievance shall be joined and processed as one grievance. Such a grievance will be processed as a single grievance in the name of one employee designated by the others to act for them. All employees joining in the grievance must be identified and sign the grievance. An employee may withdraw from a group grievance at any time but may not, then, resubmit the grievance. Any withdrawal must be submitted in writing to the servicing personnel office. A decision rendered in a group grievance applies to all employees in the group, and each is provided a copy of the decision.
5. FORMAL GRIEVANCE DECISION AND REPORT OF FINDINGS AND RECOMMENDATIONS. A copy of each formal grievance final decision and the report of findings and recommendations, if applicable, shall be forwarded to the Employee-Labor Relations Policy Branch, Employee-Labor Relations and Program Evaluation Division.
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6. GRIEVANCE REOPENING. The Director of Personnel may recommend, in writing, to a deciding official that a grievance be reopened and reconsidered at any time, notwithstanding any other provision of this Order.